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PLANNING BOARD

**Proposed Amendments to the Grafton Zoning By-Law
2018 Special Town Meeting
Article 1**

To see if the Town will vote to amend the Zoning By-Laws to add a new Medical Marijuana and Marijuana Establishments Bylaw and by deleting definitions and a special permit finding as follows:

1. Amend Section 5 – Special Regulations -- by adding a new ZBL Section 5.10 Medical Marijuana and Marijuana Establishments

5.10 Medical Marijuana and Marijuana Establishments

5.10.1 Authority, Purpose and Intent

5.10.1.1. These provisions are enacted pursuant to General Laws, Chapter 40A, Section 9A, and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the Grafton residents, the general public, patients seeking treatment, and customers seeking to purchase marijuana for recreational use. The Medical Marijuana and Marijuana Establishments by law is therefore necessary to advance these purposes.

5.10.1.2. Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, 105 CMR 725.000, and M.G.L. Chapter 94G, Marijuana Establishments will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulation as established by the Massachusetts Department of Health (DPH) and to provide retail sales of marijuana for non-medical use in a manner that meets or exceeds state regulations.

5.10.2. Definitions

For the purpose of this bylaw, the following definitions shall apply:

Craft marijuana cultivator cooperative: A marijuana cultivator comprised of residents of the Commonwealth as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission (hereafter, "the Commission"), and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to the consumer.

Independent Marijuana Testing Laboratory: A laboratory that is licensed by the Commission and is: (i) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory of the International Laboratory Accreditation Accrediting Cooperation with a mutual recognition arrangement, or that is otherwise approved by the Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Commission pursuant to this chapter

Marijuana Cultivator: an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana Establishment: a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related businesses.

Marijuana Product Manufacturer: an entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana Products: products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including without limitation edible products, beverages, topical products, ointments, oils, and tinctures.

Recreational Marijuana Retailer (RMR): an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Medical Marijuana Treatment Center: Also known as Registered Marijuana Dispensary as defined by 105 CMR 725.000.

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Off-Site Medical Marijuana Dispensary (OMMD) – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same

registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105 CMR 725.00.

5.10.3 Application Requirements. No special permit will be granted by the Planning Board for Medical Marijuana and/or a Marijuana Establishment unless an application containing the following is submitted:

5.10.3.a. The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 1, Administration and Interpretation of this Zoning By-Law.

5.10.3.b. In addition to the submittal requirements and review standards provided in Section 1 of this By-Law pertaining to administration, application and submission requirements, fees, powers, hearings and time limits, each applicant for a special permit under this section shall submit:

1. The name and address of each owner of the facility/operation;
2. Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
3. Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
4. A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all individual persons associated with the entity as set forth above;
5. In addition to what is normally required in a Site Plan application pursuant to Section 1.3.3, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc., which seek to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity;
6. A Management Plan as required under the Rules and Regulations of the Special Permit Granting Authority, including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to Marijuana Establishments, OMMD's, RMD's, and RMR's or off-site direct delivery;
7. A traffic impact report as set forth in the Section 8.

5.10.4. Use Regulations. The following regulations shall apply to uses under this section:

5.10.4.a. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises.

5.10.4.b. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

5.10.5. Locational and Physical Requirements

5.10.5.a. All aspects of a Marijuana Establishment, RMD, OMMD, or RMR relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

5.10.5.b. No outside storage of marijuana, related supplies, or educational materials is permitted.

5.10.5.c. Ventilation – all facilities shall be ventilated in such a manner that:

1. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishments, RMD, OMMD facility or RMR or at any adjoining use or property.

5.10.6. Reporting

Reserved

5.10.7. Restrictions and Prohibitions

5.10.7.a. The proposed uses shall not be located within five hundred (500) feet of the following, as measured from the building and/or area actively used:

1. A building containing another Marijuana Establishment, RMD, OMMD, or RMR, except for facilities that are owned or leased by the same operator; or
2. A public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or
3. Owned by and operated as part of the campus of any private or public institution of higher learning; or
4. A public library; or

5. A Playground or Park.

5.10.7.b. The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage the use of marijuana or other drugs by minors.

5.10.8. Findings: In addition to the findings required under Section 1.5.5, and all other applicable sections of this Bylaw, the Special Permit Granting Authority shall find that the proposed use:

5.10.8.a. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all applicable state laws and regulations.

5.10.8.b. If the proposed use is a Registered Marijuana Dispensary (RMD) or an Off-Site Medical Marijuana Dispensary (OMMD), complies with 105 CMR 725.000 and approved regulations of the MA Department of Public Health.

5.10.8.b. Will provide copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Grafton, in accordance with M.G.L. Chapter 94G and subsequent regulations, to the Building Commissioner prior to the issuance of a Certificate of Occupancy.

5.10.8.c. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.

5.10.8.d. Provides a secure waiting area.

5.10.8.e. Provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.

5.10.8.f. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

5.10.09. Transfer/Discontinuance of Use

5.10.9.a. A Special Permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership or leasing of the premises as an Marijuana Establishment, RMD, OMMD, or RMR.

5.10.9.b. Any Marijuana Establishment, RMD, OMMD, or RMR permitted under this section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with 105 CMR 725.105 (J) and (O) prior to the expiration of its DPH Registration, immediately following revocation or voiding of its DPH Registration, or following the expiration, revocation or voiding of its license issued by the Commission.

5.10.10. All other applicable provisions of the Grafton Zoning By-Law shall also apply.

5.10.11. If any section or portion of this By-Law is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of this By-Law.

2. Amend ZBL Section 2 – Definitions -- by Deleting the following definitions as they are incorporated in to the proposed Section 5.10 as indicated above:

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Off-Site Medical Marijuana Dispensary (OMMD) – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

3. Amend ZBL Section 1.5.3.k. – Special Permit Conditions for Registered Marijuana Dispensary and Off-Site Medical Marijuana Dispensary -- by deleting Section 1.5.3.k as it is incorporated into the proposed Section 5.10 as indicated above.